

need no revisions in the next Office Action.

Restriction Under 35 U.S.C. 121

Claims 1-66 were subject to restriction under 35 U.S.C. 121 into two Groups:

Group I, claims 1-42 drawn to methods for treating neovascularization, classified in Class 514, subclass 575; and

Group II, claims 43-66 directed to ophthalmic compositions for treating neovascularization, classified in class 514, subclass 912.

Applicants again acknowledge their election with traverse of Group I, claims 1-42, made during a telephone interview with Examiner Ozga on May 7, 2001. Applicants maintain that there is no undue burden to search the additional invention of group II, and respectfully request the Examiner to withdraw the restriction requirement.

Rejection under 35 U.S.C. 102

Claims 1-42 stand rejected under 35 U.S.C. 102(a) as being anticipated by Hu *et al.* (WO 99/58126). Applicants strenuously disagree with this rejection and submit that Hu *et al.* has been erroneously applied against the instant application. Under 35 U.S.C. § 102(a) the Hu *et al.* is available as a reference based upon its publication date of November 18, 1999. Applicants respectfully submit that the instant rejection is obviated by the priority claim under 35 U.S.C. 120 to U.S. application 09/127,920. Applicants direct the Examiner's attention to the reply to the rejection under 102(a) over WO 00/07565 on page 3 of the response dated November 8, 2001, discussing the priority claim.

CIP
OK for
support

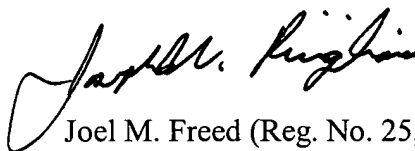
In addition to the preceding, Applicants note the Examiner has argued that Hu teaches "a method for treating retinal neovascularization in a human comprising topically administering to the eye a composition capable of delivering batimastat (0.1-.3% by weight) to the retina, wherein the composition comprises a polymer. (See claim 22, line 28)" *See* January 29, 2002 Office Action at pages 3-4. Applicants submit that the foregoing sentence is the only guidance the Examiner has given as to how Hu allegedly anticipates all of the pending claims. "Anticipation under Section 102 can only be found if the reference shows exactly what is claimed." *Titanium Metals Corp. v. Banner*, 778 F.2d 775, 780 (Fed. Cir. 1985). The rejection fails to indicate that Hu *et al.* address all of the limitations of the pending claims, for example the limitations of claims 20-22, and it is inadequate to support an allegation of anticipation under 35 U.S.C. 102(a) and should be withdrawn.

Conclusion

In view of the foregoing Applicants believe the application is in condition for allowance and solicit a Notice of Allowance indicating such at the earliest possible time. Applicants do not believe that any fees are due in conjunction with this filing. However, if any fees are required, then the Commissioner is authorized to deduct the fees from Arnold & Porter Deposit Account No. 50-1824 referencing matter 13587.286.

The Examiner is encouraged to contact the undersigned should any additional information be necessary.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joel M. Freed".

Joel M. Freed (Reg. No. 25,101)

Andrew S. Brenc (Reg. No. 45,534)

Joseph W. Ricigliano (Registered Patent Agent No. 48,511)

Date: April 23, 2002

ARNOLD & PORTER
555 Twelfth Street, NW
Washington, D.C. 20004
(202) 942-5000 telephone
(202) 942-5999 facsimile